

# MSBA ELDER LAW SECTION E-NEWSLETTER

May 26, 2009

## E-Newsletter Editorial Staff:

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## SENIOR FEDERATION DISSOLVES

In a surprising move due to lack of funding and support, the Senior Federation will ask its members to dissolve after July 1. The advocacy group has been a policy-making force since 1973 on many senior issues, including cheaper drug prescriptions, pension rights, and health care reform. Membership has declined from 40,000 in the 1980's to about 9,000 today, indicating that the "young old" may not join efforts like those of the Senior Federation at the same rate as the "old old" have in the past. A full story is available at:

<http://www.startribune.com/local/45368147.html?elr=KArksUUUU>

## UPDATE ON BILLS SIGNED BY THE GOVERNOR

The following is a partial list of bills affecting Elder Law attorneys that were signed by the governor:

- **HF 1362** – Omnibus health and human services finance bill, with one line item veto (p. 373, line 11) and failure to override veto. The language of the new law is available at:  
<https://www.revisor.leg.state.mn.us/laws/?id=79&doctype=chapter&year=2009&type=0>
- **HF 804** – Revisions to Minn. Stat. § 524-5 *et al* and related provisions regarding guardianships and conservatorships, including adding a protected ward's Bill of Rights, requiring disclosure of an attorney's potential conflict of interest, requiring registration of guardians/conservators with the court by July 1, 2013, restricting the new guardian's ability to revoke a previously appointed health care agent, and other provisions. The language of the new law is available at:

<https://www.revisor.leg.state.mn.us/laws/?id=150&doctype=chapter&year=2009&type=0>

- **HF 818** – Revisions to the Vulnerable Adults Act and related provisions, including strengthening the ability to combat financial exploitation and moving toward centralization of maltreatment reporting. The language of the new law is available at:  
<https://www.revisor.leg.state.mn.us/laws/?id=119&doctype=chapter&year=2009&type=0>
- **SF 412** – Addition of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, which allows for transfer of jurisdiction among states in guardianship and conservatorship matters. The language of the new law is available at:  
<https://www.revisor.leg.state.mn.us/laws/?id=46&doctype=chapter&year=2009&type=0>
- **SF 1208** – Amendments to Minn. Stat. § 256B.15 by adding a new subdivision to codify current DHS policy to not pursue MA estate recovery against the homestead of a medical assistance recipient if the homestead is also owned by someone else other than the surviving spouse, children under age 21, and disabled children. Recovery is delayed until the survivor dies, sells, or moves. The language of the new law is available at:  
<https://www.revisor.leg.state.mn.us/laws/?id=160&doctype=chapter&year=2009&type=0>

## **ELDER LAW NEWS**

### Celebrating Older Americans Months

[http://www.reviewmessenger.com/index.php?option=com\\_content&view=article&id=1395:c\\_celebrating-older-americans-months&catid=33:fashion-and-beauty](http://www.reviewmessenger.com/index.php?option=com_content&view=article&id=1395:c_celebrating-older-americans-months&catid=33:fashion-and-beauty)

### Growing old is changing in Minnesota

[http://www.postbulletin.com/newsmanager/templates/localnews\\_story.asp?z=2&a=399751](http://www.postbulletin.com/newsmanager/templates/localnews_story.asp?z=2&a=399751)

### Senior Federation to shut down

<http://www.startribune.com/local/45368147.html?elr=KArksUUUU>

### The super memory club

<http://www.startribune.com/lifestyle/health/45799177.html?elr=KArksUUUU>

Bloomington finding way to make room for 'granny flats'

<http://www.startribune.com/local/west/45222697.html?elr=KArksUUUU>

### **UPCOMING EVENTS AND CLE PROGRAMS**

#### **Medical Assistance and Long Term Care 2009**

##### **Video**

May 29, 2009 – Duluth

Contact Information: <http://www.minncle.org/SeminarsSearch.asp> or 1 800-759-8840.

#### **American Parkinson Disease Association Spring Conference**

June 6, 8:30 a.m. – 12:30 p.m.

Radisson Hotel in Roseville, 2540 N. Cleveland Ave.

Contact information: e-mail [paulette.olsen@allina.com](mailto:paulette.olsen@allina.com) or call 612.863.5850 or 888.302.7762

#### **Probate & Trust Law Section Conference**

June 8 - 9, 2009

Saint Paul RiverCentre

Contact Information: <http://www.minncle.org/SeminarsSearch.asp> or 1 800-759-8840.

#### **Elder Law Institute**

October 8-9, 2009

Minnesota CLE Conference Center

## ELDER LAW SECTION ACTIVITIES

**ELDER LAW SECTION ANNUAL MEETING AND GOVERNING COUNCIL MEETING:** The annual meeting of the Elder Law Section will be on June 9, 2009 at 1:00 p.m. at RiverCentre in St. Paul (following the Probate and Trust Law Annual Conference). This meeting serves as the next Governing Council meeting as well.

**MA COMMITTEE MEETING:** The next MA Committee meeting will be at 3:30 p.m. on Tuesday, June 16, 2009, at the MAO Offices, 2021 E. Hennepin, Suite 200, Minneapolis. Topics for the meeting may be submitted to MA Committee Chair, Cathryn Reher, at [creher@mnelaw.com](mailto:creher@mnelaw.com), or faxed to 952-542-9201. For directions, or to attend by phone, please contact Tracie Fenske with Long, Reher & Hanson, P.A. at 952-929-0622.

**VULNERABLE ADULT COMMITTEE MEETING:** The next meeting of the Vulnerable Adult Committee will be Thursday, July 30, at Noon, at the offices of Pearson, Randall, Schumacher & LaBore, P.A., 100 S. 5<sup>th</sup> Street, Suite 1025, Minneapolis, 612.767.7500. Contact co-chairs Ken LaBore at [klabore@prslegal.com](mailto:klabore@prslegal.com) or Joel Smith at [joel@koslaw.com](mailto:joel@koslaw.com) for more information.

## MINNESOTA CASES

*The following is a Minnesota Court of Appeals unpublished decision released on May 19, 2009:*

### **A08-1458**

In the Matter of the Stephanie L. Wilcox Trust Under Irrevocable Trust Agreement of Craig C. Wilcox dated December 28, 1994.

STONEBURNER, Judge

Appellant Commissioner of Human Services challenges the order of the district court construing a trust established for the benefit of a young woman who has been diagnosed with moderate-to-severe Down Syndrome to be discretionary concerning distribution of trust principal, making trust principal an unavailable resource for the beneficiary's care and support. Respondent trustees noticed review of the district court's

holding that income from the trust is such an available resource. Because we conclude that as a matter of law the beneficiary can compel distribution of both principal and income from the trust for her adequate care and support, we affirm in part and reverse in part.

The case is available at:

<http://www.lawlibrary.state.mn.us/archive/ctapun/0905/opa081458-0519.pdf>

*Unpublished opinions may not be cited except as provided by Minn. Stat. Section § 480A.08, Subd. 3 (2008).*

### **STATUTES, REGULATIONS, BULLETINS**

*There are no Statutes, Regulations, or Bulletins to report this week.*

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**DON'T FORGET THAT THE ELDER LAW WEBSITE IS A GREAT RESOURCE.** Here's what you can find on the Website: Links under "What's New" to the DHS Health Care Programs Manual, the updated Income and Asset Eligibility Figures for Minnesota Health Care Programs, the DHS Bulletin on treatment of uncompensated transfers, the Minnesota Bankers Association Compliance Bulletin on Powers of Attorney, and a legislative summary; Practice Links to organizations such as NAELA, ABA Commission on Law and Aging, Minnesota Senior Federation; Links to Federal and State Government Agencies, Statutes, and Regulations; Meeting Notices, Listings of Officers and Council Members, Section Bylaws, and more.

#### **To access the ELDER LAW SECTION WEBSITE**

Click here: <http://www2.mnbar.org/sections/elder-law/index.asp>

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Please send eNewsletter contributions by noon on Saturday of each week to Suzy Scheller at [sscheller@prslegal.com](mailto:sscheller@prslegal.com).

If you do not wish to receive this eNewsletter, send your request to be removed from the mailing list to Kim Basting at [kbasting@statebar.gen.mn.us](mailto:kbasting@statebar.gen.mn.us).

Current and prior E-Newsletters are posted on the website for the MSBA Elder Law Section and are available at: <http://www.mnbar.org/sections/elder-law/newsletters.asp>.